

Rapid Development of the Egyptian Border: A Role for a Third Party; Customs and Immigration Technical Assistance

With the withdrawal of the Government of Israel (GOI) from the Philadelphi corridor in the Gaza Strip, the Palestinian Authority (PA) shares a border with Egypt. This provides an opportunity for the PA to develop new trading relationships and to directly manage movements of people and goods across the border.

At the time of writing, the parties (Israel, Egypt, the PA) are discussing when and under what arrangements the Rafah crossing would open, and the potential role of Kerem Shalom as an interim crossing.

In addition to equipping Rafah to handle the crossing of people, steps should be taken to develop the passage to handle the export and import of goods.¹

The experience of building a third-party role and in developing customs operations at Rafah will help set the standard for management of the Gaza port and airport, and will also have relevance to the crossings between Jordan and the West Bank.

What Is Meant by a “Third Party” Role?

1. It has been suggested that a “third party”² (TP) presence at the border could help ensure that border traffic is managed according to agreed protocols, and could thereby improve the level of confidence between the Governments of Egypt and Israel and the PA³. However, a clear definition of/understanding on the nature of such a presence has so far been lacking.

2. In describing a potential third party role (TPR), certain initial ground rules need to be clarified.

- The World Bank understands that this TPR would **not** extend along the Philadelphi Corridor/Egyptian-PA border, but would be restricted to work inside the confines of a border terminal.

¹ Port Said and El-Arish airport are both accessible from Gaza. To make use of these ports, however, the PA will need to negotiate understandings with Egypt; this should be done as quickly as possible. They should include transit arrangements and the possible ‘green lining’ of goods that are inspected and sealed at the border for export through Egypt’s ports and airports.

² Strictly speaking, of course, we are talking of a *Fourth* Party---but the term “Third Party” is maintained due to its familiarity.

³ The TP issue has been raised in a number of meetings with GOI, the PA, the Quartet Special Envoy and with the larger international donor community.

- The Bank also assumes, on the basis of bilateral discussions, that parties interested in playing a TPR will **not** be prepared to take direct executive responsibility for the operation of a terminal, nor for guaranteeing security: both the physical risks to personnel and the reputational risks to the TP sponsoring entity are considered excessive⁴.

3. The Bank therefore assumes that the TP would play a monitoring and reporting role, thereby helping ensure that the border crossing is operating properly from the perspectives of immigration management, customs procedures and security. Specifically this would involve:

- Monitoring the implementation and operation of immigration, customs and security protocols;
- When weaknesses are identified, along with the team providing Customs and Immigration Technical Assistance (CITA, see paragraph 9 below), working to remedy anomalies through mentoring and remedial training; and
- Reporting its findings to the parties.

4. Thus the TP would not inspect bags, people or goods, nor would it be responsible for arresting people or seizing property. It would, however, monitor the PA authorities' responsibilities in these areas, and would report on PA performance to the parties in a manner to be agreed in bilateral negotiations.

Working out the Details

5. Once the broad outlines of a TPR has been agreed by the parties, it will be necessary to negotiate more precise Terms of Reference. Questions that will need answering include the following:

- Will the TPR be restricted to immigration and security, or will it also encompass customs procedures (valuation, inspecting for standards and phyto-sanitary risk, etc.)? All such functions need to be exercised at the border. Immigration and security procedures are of more immediate concern at Rafah--but since it makes solid managerial sense for all of these activities to come under a single Palestinian Border Services Agency (see paragraph 8 below), it would also make sense that the TP monitor and report on both.

⁴ In addition to this, the deployment costs of an executive presence—either in the security sphere or in customs and immigration---would be very high. An additional cost would be the loss of opportunity for the PA to gain the necessary experience and expertise to run an efficient border. Insofar as customs are concerned, the IMF, the EC and the World Bank all believe that the best means of building capacity (proven by experience throughout the world) is to provide technical assistance, training and hands-on capacity support to the Palestinian customs service, rather than to supplant domestic capacity by private sector agents.

- What timeframes will apply to bringing Rafah into full operation (both for people and goods)? Should the TPR operate initially at Kerem Shalom in order to help create confidence? The answer to these questions will bear upon the deployment of TP personnel; if the initial TP emphasis is on immigration and security, there would be no need for the immediate posting of cargo management expertise.
- Is the TP be expected to respond to instructions from any of the parties during implementation? While this requires clarification, the logic of a monitoring and reporting role suggests not. Nor is it likely that any TP would agree to an arrangement whereby its own role is under explicit surveillance⁵.
- Reporting lines and accountabilities will need to be clearly defined.

6. There are also a number of logistical questions that need to be addressed before TP staff can be deployed. Apart from the obvious (how many staff and what skills mix, length of assignment, etc.), decisions are needed on where the staff will live and what level of physical protection they will require (and who will provide it).

7. It is likely to take several months to agree TOR and to mobilize a TP presence. During this period, it is essential that the PA take decisive steps to strengthen border its management capacities.

Establishing a Palestinian Border Services Agency

8. The Bank has recommended that the PA establish a Palestinian Border Services Agency (PBSA). At the PA's request, a separate note on this topic has been prepared (see World Bank Staff Technical Note dated October 2, 2005). The PA needs to consider this issue at the Ministerial level as quickly as possible. International donors are prepared to help create a PBSA.

Customs and Immigration Technical Assistance (CITA)

9. The EC has agreed to provide CITA, and the MF, the Bank and USAID have also expressed a willingness to help. Assistance should be mobilized as quickly as possible. If it is not possible for the EC to deploy personnel within a short period, donors should coordinate to provide stop-gap assistance⁶. CITA should focus initially on Rafah, while providing central support to PA Customs HQ and to other border passages. Priority should be given to:

⁵ Discussions are underway on the possible procurement of surveillance equipment that would permit GOI to monitor and/or supervise the Rafah operations from an off-site location.

⁶ The Bank currently convenes regular meetings of an informal Rafah Group, consisting of the EC, the UK, the Quartet Special Envoy's Office, the IMF and USAID. The purpose of this group is to maintain close intra-donor coordination in the coming period.

- The development of customs and immigration policy, including a time-bound Action Plan. This would include the preparation of rules and procedures, manuals, etc. that meet international standards but are appropriate to local conditions. The IMF is prepared to assist the PA and the CITA team in this work.
- Training and mentoring Palestinian customs and immigration agents. This training should be focused initially on what is needed to open Rafah (i.e. ensuring that PA customs agents are ready to screen/supervise the movement of Palestinians across the border).
- Defining and helping procure immediate infrastructure and technology needs. Financing is likely to be available from one or more of the Bank, the US, the EC and Canada, and should be planned in coordination with the Bank/USAID donor team working on passages and trade facilitation.
- Defining, planning and helping procure medium-term infrastructure and technology needs, as well as exploring new trade and transit agreements with Egypt. This work should once again be coordinated with the Bank/USAID donor team.
- Ensuring that internationally-recognized border management practices, adapted to local circumstances, are put in place; these would then be monitored by the TP.

The Relationship between the TPR and CITA

10. The simplest arrangement is for the same team to provide the Third Party presence and the Customs and Immigration TA. This would ensure a more seamless reporting structure and would limit complications that could arise from having too many different actors at the Rafah border crossing. However, CITA implementation should not be held up pending agreement on the provision of TP assistance---nor should the CITA provider be mandated to play the Third Party Role.

11. Whether or not one entity fulfills both roles, a two-step process is needed. CITA should begin at once.